

MINUTES

BOARD OF ADJUSTMENT HEARING

December 10, 2008

ATTENDANCE

Board Members

ATTENDED

1. Bill Arendell, Chairman
2. Carla Bowen
3. Hartley Turley

Staff Attendance

1. Linda Elliott, Planner I
2. Doris Hernandez, Secretary

ABSENT

Meeting held at the Navajo County Board of Supervisors Chambers, Holbrook, Arizona – Time: 10:05a.m. .

Bill Arendell called the meeting of the Navajo County Board of Adjustment to order and explained the meeting procedures to the public. **Mr. Arendell** then led the Pledge of Allegiance.

Item #1 – ACTION: USE PERMIT APPLICANT/OWNER: Samson J. Unthank PARCEL INFORMATION: 5999 Mesa View Dr, Lot 149, Chevelon Canyon Ranch, Unit 2. APN: 111-22-149, Township 15 North, Range 16 & 17 East, Section 1 & 12 (15NR16E) & 6 & 7 (15NR17E) of the Gila and Salt River Meridian in the Chevelon Canyon Ranches area. District: III Area: Hwy. 377 to mile marker 15, Hutch Road, follow to Dark Canyon Drive and turn right, follow to Rim Top Road, turn left and follow to Mesa View Drive, turn right, property is the 4th parcel on the right. Parcel Size: 52.50 Acres. **GENERAL CHARACTER OF NEIGHBORHOOD:** This property and all properties surrounding it are all zoned A-General. The site has rolling hills with scrub brush and cedar trees. There is sparse residential housing, both site built and manufactured homes. **ZONING DISTRICTS:** Current: A-General **Uses:** Residential Single-family dwellings, schools, parks, churches, public utility buildings, accessory buildings, playgrounds, public riding stables and other community buildings. **ZONING ORDINANCE:** Article(s): 28 – Board of Adjustment Section(s): 2802- Power and Duties **STATED REASON FOR REQUEST:** To allow an Assisted Living home with a residence above on the property. **CHANGING CONDITIONS:** The proposed use permit will allow an Assisted Living home with 10 units and a residence with five rooms above on the property. There will be traffic accessing the property for visitation of residents. Increased traffic to site will cause dust. **FINDINGS OF FACT:** The legal for this item has been properly noticed in the Holbrook Tribune and placards were posted in the neighborhood in compliance with Arizona Revised Statutes and Article 28. The applicant has submitted the plans and supporting statement required by Article 3, Section 302 (10), and said plans and supporting documents are complete and adequate for the Board's purposes. The subject parcel is zoned A-General, and the proposed use is one for which a Use Permit may properly be granted pursuant to Section 302 (10): Homes for the aged, nursing homes and convalescent homes may be allowed with a Use Permit issued by the Board of Adjustment. The subject property is surrounded by other 40 acre parcels; utility services are adequate for the proposed use; and the proposed use is consistent with the general character of the area. The subject property is currently vacant land, and the development of the subject property pursuant to the Use Permit would have impacts such as increased traffic because of visitors and the driveway will be compacted earth which could create dust. Staff and the applicant have considered these issues, and the impacts of the proposed use would be no greater than many uses for which a Use Permit would not be required in the A-General zone such as: Commercial feed lots, dairy farms, hospitals, libraries and public riding stables. After balancing these impacts against the applicant's right to develop its property and the beneficial nature of the proposed use, staff finds that the public health, safety and general welfare will not be adversely affected by the issuance of a Use Permit and

that the conditions set forth herein will provide adequate protection for adjacent properties and the permitted uses thereof. The Chevelon Canyon Ranches CC&R's state in section 5, paragraph A that all parcels shall be used for residential, recreational and hobby ranching purposes only, and in Section 5, paragraph B that hospitals, clinics and other facilities for the treatment or care of the physically or mentally ill or disabled are prohibited. **ENGINEERING COMMENTS:** The Engineering Staff has no objections to the applicants request for a Use Permit for the proposed Assisted Living Facility. **FLOOD CONTROL COMMENTS:** Navajo County Flood Control has reviewed parcel #111-22-149. Parcel #111-22-149 is outside the FEMA floodplain, per Map 3725E, dated 9-26-2008. Flood Control does not have any objections to this Use Permit. **PLANNING & ZONING DEPARTMENT:** This is an allowed use in A – General zoning. The applicant satisfies the requirements of the Use Permit. The facility will provide 190 sq. ft. per room with one resident per room. There will be LED lighting and radiant heating in the floor. Private garbage collection by owner will be handled once per week to a waste collection facility such as Waste Management or Larson Waste. The site will have wind and solar generation of electricity. Petroleum Helicopters, Inc. (PHI) Air Evac Services does service the area of Highway 377 between Heber and Holbrook, Arizona. There will be a fire sprinkler system in the facility plus water storage capacity for fire suppression. The 10,000 gallons of storage will provide 200 minutes of capacity. There will be an onsite well in conjunction with the ten thousand gallon storage tank. The site is bordered by an electrical easement that has access roads to Rim View Road which intersects with Mesa View Drive and can provide other access in case the primary road gets blocked. **PUBLIC WORKS DEPARTMENT RECOMMENDATION:** Should the Board grant this Use Permit request, staff would recommend the following conditions be applied. The applicant must adhere to all Navajo County permit and code requirements for construction of the building. The Use Permit is solely for an Assisted Living facility with a residence included in the same building and shall be allowed to occur only in the location shown on the site plan and the structure shall never be used as a rental unit. The building must be handicapped accessible. Any further expansion of this use permit shall be reviewed by staff & the Board of Adjustments. The use permit shall automatically expire if substantial construction, in accordance with the plans for which the use permit is granted, has not been completed within one year from the date on which the use permit is granted. **Linda Elliott** gave a brief description of the parcel and displayed a map of the property. She mentioned that there were several letters in opposition to this Use Permit. **Hartley Turley** asked how far from Hwy 377 is the parcel and is it all dirt roads. **Linda** answered that it is 14 mi. to the entrance to Chevelon Canyon and still quite a few miles back, 4½ mi. back, 18 ½ altogether.. **Bill Arendell** asked if anyone would like to speak on behalf of this issue. **Samson Unthank**, owner of the property came forward. He stated that he is one of those that never wanted to be involved with anything that has to do with people being upset. This is the first time that he has had to stand up for something that he wants, he is not one that fights or has any complications. He stated that he bought this property for this intention and he doesn't remember the gentleman's name but when he went to buy the property he explained what he wanted to do and he told him that he didn't see any reason why because there was not going to be very much traffic at all and no street signs. **Mr. Unthank** stated that he had seen the CC&R's at that time so he went ahead and bought the property. He stated that the majority of the problem, based on his opinion, that people have brought up that because there is an individual who has 40 acres there and he has 3 clients whom one is a sex offender and one which they call Title or Chapter 7, which is incompetent to stand trial, so they have a lot of problems with these individuals. He has the police reports on one person and when he went to the Navajo County Sherriff's Dept. they told him that there was a large stack and there were more cases on hold because they can't do anything because of the Title Chapter 7. He also stated that people are worried that by allowing the use of an assisted living home that this will open the doors to like halfway houses, DDD homes for such individuals as this and private jails and now on the website they are talking about nudist colonies and he does agree with that to an extent, of course not in this colony. He stated that with his experience doing the investigation, information and research himself and calling different Planning & Zonings. He gave an example like whenever a person applies to put an assisted living home in Maricopa County it is a different process. It is called a group home and the public doesn't get notified or anything and here it is a Use Permit and in Payson he has someone who is trying to open up a "friend" over there and every time she goes back there they give her different reasons or different answers. He thinks that the Planning & Zoning needs to separate these individual facilities or group homes by category instead of just saying for example in Phoenix you can do a group home, you can do a DDD home or an assisted living home and it's all generalized under the group home and that is kind of understandable because in the city there is really nowhere that you can put certain types of homes so people have to go and fight. But being

how the community is still small, it is obvious you don't want anything like this, you still have a chance to make those adjustments. Instead of just having a Use Permit, having a permit specifically for the type of home that someone is applying for whether it's permit or use, this way whenever someone goes before a board then the board will not be worried about if they let the Use Permit go by for an assisted living home then the next person that they have had a problem with dropping off these sex offenders on the property for days at a time He is working with CPS right now with the DDD Dept. and he has given the person's name and they are doing some research because what it is coming down to is for example this person being on the Title Chapter 7 is mentally incompetent, the state can't legally give information on the individual because they are mentally incompetent and it's been very hard to locate this guy who has a 40 acre parcel out there on his land and it's not even in his name, it's in someone else's name. **Bill Arendell** stated that he has made his point and if the board had any questions. **Carla Bowen** asked Mr. Unthank that if he is purposing that people will be living in this facility was he going to get paid for that. **Mr. Samson** answered yes, it is a business. He is waiting for the dept. of health to fax Linda Elliott some paperwork. He found out a couple of days earlier that an assisted living home is not considered a medical facility so he said that was fine but that he needed to have that in writing so he gave them the e-mail and for some reason it didn't go through so he got her fax number. And then he said that it wasn't even something that he brought up. What was told to him by the Health Dept. was that assisted living homes are federally protected so people can't stop them from being put in the neighborhoods so he said that is fine, it is great but that he needs to have it in writing and have a manager or someone at a higher level and go ahead and fax the paperwork. **Mr. Turley** asked you bought the property and saw the CC&R's and knew what they were and it clearly states that you can't have a business there, what justifies you to go on with this process. **Mr. Unthank** responded that it does state you can have businesses it gets specific in certain areas as far as in home computer use he. **Mr. Arendell** asked where he reading that from. Ms. Bowen pointed out to Mr. Arendell where it was. **Mr. Turley** stated that it says that you can have a computer business where people do not come to your home. **Mr. Unthank** mentioned that on page 6 it reads "where businesses are not apparent from the exterior of the residence does not create noise or congestion from traffic or parking and preserves the residential nature of the subdivision", so this does allow businesses. He typed up a letter from the website for the association and one of the things that he pointed out was that these large companies don't want to get specific when you are trying to sell land in the middle of nowhere, they want to give you what you want to hear so they are going to generalize everything. **Ms. Bowen** explained that their question was only on the CC&R's. **Linda House** came forward to speak on behalf of this item. She stated that she is a certified nurse's aide, certified caregiver and she just got her manager certification for assisted living homes. She has worked in hospitals and skilled nursing homes, assisted living homes and has done personal home care since 1980 and the sad thing is that most of the people who are in care facilities do not ever get visitors. So as far as increasing traffic it's slim to nil that maybe 6 cars might go down that road, there is more people out there hunting than what is going to come and see someone in the assisted living home. At this time there are 70 million baby boomers reaching the age where they are going to start needing more care and the need it great for assisted living homes. In Payson where she and her friend have been trying to get a home started there is 100 people on the waiting list that can't even get in to a facility and that is just in the city of Payson. All of them that live out there year round have been looking forward to this because it's a place where they can work closer to home, right now she has to travel 100 miles because there is so little employment and in the time when people are losing their jobs a place to work would be excellent. It would be beneficial to the county it would bring in tax dollars and doesn't see where it is going to cause any kind of difficulty. The people that would be in his assisted living home are elderly or handicapped persons, they are not going to be out cruising around like this other neighbor that dumps these adult criminals out there that are not capable of managing their own personal life and they run all over the place on 4-wheelers and reek havoc and these people are not going to do that. She added that it is not like a store front that it's going to have constant traffic. **Mr. Arendell** asked if anyone would like to speak in opposition of this issue. **Jerry Grubb**, president of the Homeowner's Association Board at Chevelon Canyon ranch came forward to speak. He stated that he did send a letter. The board is unanimously objecting strictly on the grounds that it violates the CC&R's, they have no personal opposition to assisted living it is just a matter that the CC&R's rarely clearly permit it. To put it into context, Mr. Unthank only read half of that statement. In paragraph 5 A of the CC & R's it says "all parcels shall be used for residential and recreational hobby ranching only. All installations shall comply to these standards. No commercial business shall be conducted on the parcel. This restriction shall not prohibit a home office where business is conducted through telephone, computer or other means and where

the business is not apparent from the exterior that does not open the door to all businesses that is apparent from the exterior that qualification only applies to a home office". So it very clearly forbids commercial businesses other than home offices that don't look like offices. Against a matter of precedence, as board members they have been elected to enforce the CC&R's and are worried about precedence because if someone can come here and get the CC&R's overruled then they really don't have any leg to stand on to try to enforce them themselves. That is their biggest objection. He has received dozens of letters. He doesn't know if people know that the board is already opposed but knows that Linda has said that there were a lot of locals that were in favor but none of them have told him that, he has had nothing but opposition letters and phone calls. Again on the basis of precedence he asks that they deny and allow the board to continue its empowerment to enforce their covenants. **Mr. Turley** asked approximately how many people live in the HOA and also are there any other businesses that have crossed this barrier before or are there any businesses there. **Mr. Grubb** answered that he is not aware of any businesses there he knows there may be one or two home offices but they are strictly computer based and they have approximately 700 addresses that they mail fees out to, there are 850 lots so they are talking about potential if everybody lived there maybe a couple of thousand people but they have a mailing list for 700 different addresses of owners. **Mr. Arendell** asked if anyone else would like to speak. **Seymour Viscardi**, ranch owner, came forward to speak. He is not in favor of this. He bought his property knowing that they were not going to have businesses and he doesn't want to see a business and as the gentleman has said he is going to have people coming in and have 10 people stay there. Flood Control says that they don't have a problem; well they do have a problem. If Black Canyon River floods you can't get across it so if there is any emergency needs you either have to come all the way around through Heber and take the 504 or a helicopter. As for the helicopter, the property is backed up by high tension voltage lines so now there is a potential of 10 people if something should ever happen a helicopter coming in and hitting these high voltage lines, which at night you will not be able to see, so in the case of emergency you have that potential. He is opposed to this, he does not want to see businesses' coming into their area, this is why he bought for the future of his children. An open ranch to have horses and have barns, but not businesses. He is totally opposed to it and asks if they would vote against. It is 3 hours to the nearest medical facility. It is better off taking it in to Payson or Heber. It has a lot better potential there. He understands that economics is really bad at the moment, but Holbrook would have been a better choice, Heber would have been a better choice, but not out in the middle of nowhere. The potential of people not getting medical attention as quickly as possible. **Donald Perkins** came forward to speak on behalf of this. He stated that he is familiar with the client and what they are doing and understands that it is against the covenants and restrictions that they have out there and he is aware that some folks do have businesses out there in fact he works with them on a personal basis. **Mr. Turley** asked what kind of businesses. **Mr. Perkins** answered excavation-equipment. **Linda House** indicated that this would be her husband and they are not in this, they are right across the street from the HOA. **Roger Farr** came forward to speak and stated that he has nothing to do with this but they said something about computer based businesses and asked isn't that still commercial, reality is if you're running any type of business whether it's home front or anywhere else it is still considered a business and those people that are still doing this should be excluded from that too in the same homeownership and there is probably a whole bunch that do that kind of stuff that far away. **Ms. Bowen** said that they have a good feel for this. A-General zoning does allow for what he is requesting, however it is not the board of adjustments position to go in and override the conditions, covenants and restrictions of a subdivision. It is not their place. It is just opening a can of worms that would open a huge litigation for the county. There is a huge number of subdivisions that are ruled by CC&R's and every time they have ever had a Special Use Permit or a Variance that comes before the board, they have always asked for permission from the HOA before for any kind of Special Use Permit or Variance. As far as she is concerned their position is very limited, it is not their position to overrule CC&R's and she is opposed to it. As far as businesses, the CC&R's very specifically state what is allowed and what is not and she sees this very commonly in CC&R's where it says a home business, which is a home office. They are very specific in what it will allow and she doesn't think they should be in a position to overrule CC&R's. **Mr. Turley** added that he feels like an injustice has been done to the clients because of lack of emergency services, fire dept. and medical services, 18 1/2 miles on a dirt road could take a long time and doesn't think it's fair to them and he does feel like they are setting up a business in the neighborhood and is opposed to this also. **Ms. Bowen** made a motion that the Use Permit be denied. **Mr. Turley** seconded the motion. **Special Use Permit Denied unanimously by Resolution # 08:11B.**

Item #2 – ACTION: **USE PERMIT APPLICANT/OWNER:** Roger L. & Krista Farr **PARCEL INFORMATION:** 1082 Aspen Way APN: 409-17-005B, Township 10 North, Range 21 East, 3 S.W. of the Gila and Salt River Meridian in the Show Low West area. District: IV Area: Hwy 260 west to Lone Pine Dam Rd, go to Aspen Way and turn left, property is on left hand side of Aspen Way. Parcel Size: 2.34 Acres **GENERAL CHARACTER OF NEIGHBORHOOD:** This property and all properties surrounding it are all zoned A-General. The neighborhood is comprised of site built homes with some manufactured homes. The site for the guest quarters is approximately 200' from Aspen Way. The property is surrounded by a fence. **ZONING DISTRICTS:** Current: A-General **Uses:** Residential Single-family dwellings, schools, parks, churches, public utility buildings, accessory buildings, playgrounds, public riding stables and other community buildings. **ZONING ORDINANCE:** Article(s): 28 – Board of Adjustment Section(s): 2802- Power and Duties **STATED REASON FOR REQUEST:** To allow placement of a 2nd dwelling on the 2.34 acre parcel to provide guest quarters for family members on the premises. **CHANGING CONDITIONS:** The proposed use permit will allow a second dwelling on the property. There will be additional cars accessing the driveway off of Aspen Way. An additional driveway to the guest quarters will be added. There is a watercourse flowing through this property and the area has a known history of flooding. Any grading done will have to insure that post development flow is not greater than the pre-development flow. **FINDINGS OF FACT:** The legal for this item has been properly noticed in the Holbrook Tribune and placards were posted in the neighborhood in compliance with Arizona Revised Statutes and Article 28. The applicant has submitted the plans and supporting documents required by Section 2804, and said plans and supporting documents are complete and adequate for the Board's purposes. The subject property is zoned A-General, and the proposed use is one for which a Use Permit may properly be granted pursuant to Section 2804. The subject property has an existing house and the development of the subject property with a second dwelling will have impacts such as increased traffic and drainage issues. The staff and the applicant have considered these issues. After balancing these impacts against the applicant's right to develop its property, staff finds that the public health, safety and general welfare will not be adversely affected by the issuance of a Use Permit and that the conditions set forth herein will provide adequate protection for adjacent properties and the permitted uses thereof. **ENGINEERING COMMENTS:** The Engineering Staff has no objections to the applicants request for a Use Permit for a second dwelling on the property. **FLOOD CONTROL COMMENTS:** The FEMA map 4486E dated 9/26/08 shows that this property is not in a Floodplain; however this area has a known history of flooding problems. There is a watercourse flowing through this property with a watershed greater than 640 acres. The Flood Control Staff has no objection to the Use Permit, given that a drainage analysis is submitted that meets the Drainage Policy adopted by Navajo County in 2007. The drainage analysis and drainage design should insure that post development flow from the development site is not greater than the pre-development flow for the 2, 10, 50, and 100 year flood events. **PLANNING & ZONING DEPARTMENT:** The Planning & Zoning staff has reviewed the Use Permit application and finds it ready for processing. This is an allowed use in A – General zoning with a Use Permit. A watercourse flows through the property and a drainage analysis has been requested to insure the drainage issues will be addressed. The applicant satisfies the requirements of the Use Permit. **PUBLIC WORKS DEPARTMENT RECOMMENDATION:** Should the Board grant this Use Permit request, staff would recommend the following conditions be applied. The applicant must adhere to all Navajo County permit and code requirements for construction of the guest quarters. The Use Permit is solely for use as a guest house and shall be allowed to occur only in the location shown on the site plan and the structure shall never be used as a rental unit. An Engineered Drainage Analysis must be submitted for review and meet the approval of the Navajo County Engineering Department before a building permit can be approved. After review of the analysis a drainage design and grading plan may be required. The use permit shall automatically expire if substantial construction has not been completed within one year from the date on which the use permit is granted. **Linda Elliott** gave a brief description and showed a site plan. She stated that she had 1 letter in opposition from Merrell Matney. **Ms. Bowen** asked where on the picture the property line was for the other property owner. **Roger Farr**, owner of the property, stated that it was behind the trailer, probably 12-13 ft. behind the other trailer. **Ms. Bowen** asked if all of the equipment was his neighbors. **Mr. Farr** stated that it was his, the horse trailer and his trailer. She pointed at the picture and asked whose property it was and **Mr. Farr** answered that it was Merrell's property. **Mr. Farr** came forward to speak. He stated that they are trying to bring his father-in-law here due to some medical situations and he is trying to do the best thing they can for him and offered him to come into their home but when you have your independence people want to keep that so they offered this to him and from what he

understands this property has not ever been split, most have already. Merrell's house next door has in the past has had some heavy waters come through his but that his own home is 15-16 ft. higher up on the hill than Merrell's actually is. Merrell didn't seem to have any problems with it, he said that this was great and now they get a letter of opposition from him. **Ms. Bowen** stated, your home sits back on a higher elevation. **Mr. Farr** explained that the picture does not really show it but from the creek it actually rises up. **Ms. Bowen** asks what about the mobile home that he is going to put? **Mr. Farr** answered that it will be as far or farther back from the property, the whole property is sloped up and Merrell's is down here (pointing this out on the picture). **Ms. Bowen** asked if this mobile home will be higher. **Mr. Farr** stated that it would be the same or actually be back a little bit higher than his own house is at now. **Ms. Bowen** asked Mr. Farr if he had CC&R's in his area. **Mr. Farr** answered none. She asked if he had deed restrictions. **Mr. Farr** stated none that he understands; they never gave him a packet for it or anything else. He noticed that several of the other properties have different homes on down the way and those that have obviously been split. **Mr. Turley** asked if that was Merrell's property below it on the map. **Mr. Farr** answered no and showed on the map where Merrell's property was. He stated that Merrell's area sits a lot lower and is pretty much totally flat and that his property rises up on a hill. **Ms. Bowen** commented that she is sure that he is taking that into account. **Mr. Farr** stated that the water doesn't come up 20 ft. on the property even when it rained really hard it hits that bottom area and just sits right there and that's in the hardest rain that they have had since he has been there. **Donald Perkins** came forward to speak. He stated that he is doing some preliminary work on some drainage analysis and it does show that the house is out of the floodway and also the septic is out of the floodway. They have not done an extensive level 2 analysis to show where the flood plain is because it will be economically prohibited for the client to do something that extensive to show where the house lies in relation to the flood plain but there is an elevation difference and he does have a report that he is preparing and does touch light on a level 3 analysis. **Mr. Turley** asked if there was anything here that could affect the neighbor next door. **Mr. Perkins** stated that not at this point but that in fact the change so far that he has is about 6 places past the decimal point before you notice anything below it and that's if it is in the flood plain which he has not done that study whether it is in the flood plain. **Ms. Bowen** asked Mr. Farr if Mr. Matney should bring horses in next to where he will be placing the mobile if it was going to be objectionable to him. **Mr. Farr** answered that it wouldn't because he has a cow in the corral but he doesn't know if he would be allowed to bring horses in on the property. **Ms. Bowen** stated that he would have to have a setback but she was just saying that even if he did. Mr. Farr answered that it would be fine and he talked to his father-in-law and he said that would be great because he loves horses. **Ms. Bowen** stated horses on his property. Mr. Farr stated that he would not have a problem with that at all. **Ms. Bowen** explained to Mr. Farr that his mobile home would be 20 ft. from the property line and she does not want to get down the road and then all of a sudden there is a problem because they allowed placement of the mobile home and then have horses and then the Health Dept. has to go back and revisit that. **Mr. Farr** stated that he honestly doesn't see any problem with that, he is also planning on having some horses on his property eventually just like he is to have a corral area. **Ms. Bowen** added that this may not be pertinent but just wanted to take this into account. **Ms. Bowen** made a motion to approve the Use Permit based upon staffs' stipulations. **Mr. Turley** seconded the motion. **Use Permit passes unanimously by Resolution # 08:12B.**

Item #3 – ACTION: VARIANCE APPLICANT/OWNER: Arizona Public Service Co. & Ryan Weed, Coe & Van Loo **PARCEL INFORMATION:** Lot 6 APN: 201-05-006, Township 13 North, Range 19 East, Section 22 of the Gila and Salt River Meridian. District: III Area: From Snowflake, travel west 18 miles along Hwy 277 to Abitibi Road, then north 1.5 miles, then east 1.2 miles to site. Parcel Size: 6.71 Acres **GENERAL CHARACTER OF NEIGHBORHOOD:** This property and all properties surrounding it are all zoned A-General. The paper mill is within a half a mile of the site and the Re-Energy plant is across the road from the site. Most of the area is ranch land used for grazing, rolling hills and sparse vegetation. **ZONING DISTRICTS:** Current: A-General Uses: Residential Single-family dwellings, schools, parks, churches, farms, public utility buildings, playgrounds, public riding stables, feed stores and other community buildings. **ZONING ORDINANCE:** Article(s): 28 – Board of Adjustment Section(s): 2802- Power and Duties **STATED REASON FOR REQUEST:** Variance from the Navajo County required 6-foot fence height to an 8-foot fence height. The fence will be topped with three strands of barbed wire. **CHANGING CONDITIONS:** No adverse effect anticipated due to the increased fence height. **FINDINGS OF FACT:** The legal for this item has been properly noticed in the Holbrook Tribune

and placards were posted in the neighborhood in compliance with Arizona Revised Statutes and Article 28. The applicant has submitted the plans and supporting statement required by Article 28, Section 2802 (2), and said plans and supporting statement are complete and adequate for the Board's purposes. The subject parcel is zoned A-General. The height limitation of the fence is one for which a Variance may properly be granted pursuant to Section 2802 (2). Staff feels that the granting of the variance for an 8-foot fence height is in line with the uses allowed in the zoning district. The APS standard fence height is no less than 8 feet. The fence will be constructed of chain link topped with 1-foot of three strands of barbed wire. APS designs to National Electric Safety Code (NESC) guidelines per their Risk Management policy. The safety guidelines are developed to assure employee and public safety. NESC guidelines stipulate this height. **ENGINEERING COMMENTS:** The Engineering Staff has no objections to the applicants request for a Variance from the required 6-foot fence height to an 8-foot fence height. **FLOOD CONTROL COMMENTS:** The FEMA map 4225E dated 9/26/08 shows that this property is not in a Floodplain. The Flood Control Staff has no objection to the Variance for fence height. **PLANNING & ZONING DEPARTMENT:** Staff has reviewed the variance request and finds it ready for processing. Staff foresees no adverse effect due to the increased fence height. All development and construction of the site must adhere to the County's permitting requirements **PUBLIC WORKS DEPARTMENT RECOMMENDATION:** Should the Board grant this Variance request, staff would recommend the following conditions be applied. The variance shall automatically expire if substantial construction, in accordance with the plans for which the variance is granted, has not been completed within one year from the date on which the variance is granted. **Linda Elliott** gave a brief description of the property and showed a parcel map of the property. **Mr. Turley** made a motion to pass the Variance. **Ms. Bowen** seconded the motion. **Motion passes unanimously by Resolution # 08:13B.**

Item #4 – Possible approval of the minutes for the November 5, 2008 meeting. **Hartley Turley** made a motion to approve the minutes. **Mr. Arendell** seconded the motion. Motion passes unanimously.

Item #5 – Board Members comments and/or directions to staff. The Board Members may use this time to offer additional comments regarding any item on this agenda or any other topic; and the board may direct Development Services Department Staff to study or provide additional information on topics of the Boards' choosing.

With there being no further business to come before the Board of Adjustment, the meeting was adjourned at 11:08 a.m. A motion was made to adjourn the meeting by **Bill Arendell**. Motion passed with a vote of 3 to 0.

Approved this _____ day of _____, _____.

Chairman, Navajo County
Board of Adjustment

ATTEST:

Secretary, Navajo County
Board of Adjustment